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OFFICE OF PETITIONS

In re Application of
Peter Seibel, et al.
Application No. 08/765,244
Filed: October 30, 1977
Attorney Docket No. 8484-018-999

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 17, 2001, which set a shortened statutory period for reply of three (3) months. On July 17, 2001, applicant submitted a 3-month extension of time, along with a CPA (which was appropriately treated as an RCE). However, the constructive RCE was improper since it was not accompanied by a submission as required by 37 CFR 1.114. Accordingly, the application became abandoned on July 17, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The amendment filed March 20, 2003 is being construed as the submission required under 37 CFR 1.114 for the RCE filed on July 17, 2001.

The petition is **GRANTED**.

The Revocation and Power of Attorney filed March 14, 2003 has not been accepted since the assignee has failed to provide a proper certification under 37 CFR 373(b). If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center AU 1635, for further processing of the request for continued examination under 37 CFR 1.114 filed July 17, 2001.

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